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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/041,538 03/11/98 MENARD

D 1948-4293USI

MORGAN & FINNEGAN
345 PARK AVENUE
NEW YORK NY 10154

IM22/1210

EXAMINER

SINGH, A

ART UNIT

PAPER NUMBER

1771

DATE MAILED:

12/10/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



UNITED STATES DEPARTMENT OF COMMERCE
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09/041,538 APPLICATION NUMBER	03/11/98 FILING DATE	MENARD FIRST NAMED APPLICANT	11-12418-429 ATTORNEY DOCKET NO.
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MORGAN & FINNEGAN
345 PARK AVENUE
NEW YORK NY 10154

IM22/0615

SINGH
EXAMINER

ART UNIT 1/1 PAPER NUMBER

03/15/00

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

☒ Applicant's failure to timely file a proper response to the Office letter mailed on 12/10/99.

- ☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.

(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC).

- ☒ No response has been received.
- ☐ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.
- ☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.
- ☐ The submitted issue fee of \$ _____ is insufficient. The issue fee required by 37 CFR 1.18 is \$ _____.
- ☐ The issue fee has not been received.
- ☐ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability.
- ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.
- ☐ The proposed new formal drawings filed _____ are not acceptable.
- ☐ No proposed new formal drawings have been received.
- ☐ The express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Office Action SummaryApplication No.
09/041,538Applicant(s)
Menard et al.Examiner
Ms. Arti R. SinghGroup Art Unit
1771☒ Responsive to communication(s) filed on Oct 21, 1999☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims☒ Claim(s) 1-11, 25, 26, and 28 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.☒ Claim(s) 1-11, 25, 26, and 28 is/are rejected.☐ Claim(s) _____ is/are objected to.☐ Claims _____ are subject to restriction or election requirement.**Application Papers**☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on _____ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been☐ received.☐ received in Application No. (Series Code/Serial Number) _____☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☐ Notice of References Cited, PTO-892☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____☐ Interview Summary, PTO-413☒ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Election/Restriction

1. Claims 12-24 27 and 29-32 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention, the requirement having been traversed in Paper No. 8. The Examiner however agrees that claims 25, 26 and 28 should be grouped with Group I as they are dependent from the claims of that group.
2. Applicant's election with traverse of Group I in Paper No. 8 is acknowledged. The traversal is on the grounds that it is burdensome on the Examiner is not found persuasive because the search is within a different class which the Examiner is not familiar with. Also the same friction material could be made by numerous of other methods, such as air jet entangling, which was the reason for the restriction, which the Applicant did not argue. Hence the requirement is still deemed proper and is therefore made FINAL.

Drawings

3. The drawings are objected to because the drawings are not in English. Correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner feels that claim 11 should be dependant from claim 4 as it is further limiting the specific kinds of fillers used.
6. Claims 10 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

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regards as the invention. It appears that they are duplicate claims and that they both limit the same thermosetting resin.

7. The disclosure is objected to because of the following informalities: on page 2, the last line of the specification the word "amongst" needs to be deleted (grammar). Appropriate correction is required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-11, 25, 26 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Bortz (US 5,646,076).

Bortz teaches a friction controlling device made of a fiber reinforced polymer composite material produced by a nonwoven textile and plastics industries materials (abstract). The length of Bortz's fibers vary, but are usually within the 0.3-8 cm range which falls within the range of claims 1 and 2 (column 5, lines 4-10). Preferable fibers can be include aramid and glass fibers (column 7, lines 1-15). A polymeric resin binder or blend of resin solutions may be impregnated into the product. Such polymers may be phenols (phenolic alcohols also termed as resols) (column 8, lines 25-65). In column 10, lines 4-64, Bortz shows the addition of embodiments such as fillers. These fillers may be powders (graphite) or additional fibers.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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11. Claims 6, 7, and 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Bortz as applied to claims 1-11 and 25, 26 and 28 above, and further in view of Suzuki (US 5,823,314).

Bortz teaches what is stated above but does not expressly teach the fillers in the form of pulps, he does however state that natural fiber usually have pulps. Suzuki et al. teach frictional material containing a fiber base material such as a natural pulp fiber as a filler. It is also well known in the art that natural fibers usually have pulps. A person having ordinary skill in the art would be motivated to use the pulp fiber of Suzuki et al. in the frictional material of Bortz to increase the overall strength of the product.

12. Any inquiry regarding this communication or earlier communications from the Examiner should be directed to Ms. Arti Singh, whose telephone number is (703) 305-0291. The Examiner can normally be reached Monday through Friday from 8 AM to 5 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor Mr. Terrel Morris, can be reached at (703) 308-2414. A Facsimile center has been established in Group 1700 on the 8th floor of Crystal Plaza 3. The hours of operation are Monday through Friday 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 305-5408. This location should be used in all instances when faxing any correspondence to Art Unit 1771. Use of the Group 1700 center will facilitate rapid delivery of materials to Examiners in Art Unit 1771.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-2351.



Ms. Arti Singh
Patent Examiner
Art Unit 1771
December 6, 1999



Mr. Terrel Morris
Supervisory Patent Examiner
Technology Center 1700